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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,893	05/25/2001	Gerald Storch	10505-236866	8027
25281	7590	03/20/2006	EXAMINER	
DICKE, BILLIG & CZAJA, P.L.L.C. FIFTH STREET TOWERS 100 SOUTH FIFTH STREET, SUITE 2250 MINNEAPOLIS, MN 55402			KRAMER, JAMES A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 09/865,893	Applicant(s) STORCH ET AL.	
	Examiner James A. Kramer	Art Unit 3627	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED \_\_\_\_\_ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

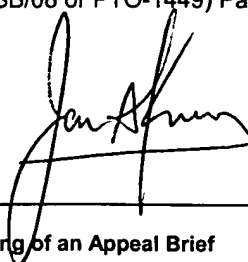
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.



3/17/06

CONTINUATION OF SECTION 11: REQUEST FOR RECONSIDERATION

Applicant's arguments have been fully considered but are not considered persuasive.

Applicant asserts that AIME fails to teach how Maximizer Dollars are accumulated and therefore the combination of Tobin and AIME fails to teach or suggest "providing members with a discount on subscription fees for access to the co-branded Internet site based upon a quantity of merchandise purchased from the retailer".

Examiner starts by noting that the teachings of AIME clearly indicate that Maximizer Dollars are accumulated based on purchases made by a user on the website, Shopping.com. However, in light of Applicant's arguments Examiner submits the article "Shopping.com Announces the Grand Opening of the Internet's First Full Service Retail Destination Hub Site" published Nov. 24, 1998. This article is entered to illustrate that the Maximizer Dollars taught in AIME are inherently accumulated based on the purchase of products and/or services from Shopping.com (see lines 5-7).

Applicant further asserts that Staples.com fails to teach that the circular provided on the website is available before they are physically distributed. Examiner respectfully disagrees. First, Examiner notes that Applicant appears to be arguing that the "Staples Specials for 2/29/00" section of the web-site is not "circular content". Examiner disagrees and notes that one of ordinary skill in the art would recognize such an "special" as content that would/could be contained in a circular and as such it clearly represents circular content.

Further, Applicant provides no clear and definite definition of distribution in the Specification, as such the Examiner is left to apply the broadest reasonable interpretation. As

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such, Examiner notes that one of ordinary skill in the art would recognize that distribution of circulars is most commonly done at the store. Therefore any user who logs on to the website prior to going to the store would clearly receive the circular content prior to having the corresponding printed advertising circular distributed to them.

Applicant further asserts that Staples.com does not teach that the e-mail of “hot news” is provided to a user prior to being offered to non-members. Examiner respectfully disagrees. Examiner asserts that the hot news items provided by email are not distributed to a user unless he becomes a “member”, as such they inherently must be given to members before non-members (since they are never given to non-members).

Applicant further asserts that the prior art of record fails to teach “providing to members clusters of links having related content, the clusters of links including a link to a news article and a link to a page on the Internet shopping site for sale of a product featured in the news article.” Specifically it is Applicant’s argument that while the references teach a cluster of links, these links are not related. Examiner respectfully disagrees. Once again, as Applicant has failed to provide a clear and definite definition for “related links” Examiner is left to apply the broadest reasonable interpretation. As such, Examiner interprets the links of Tobin as related as they are all content provided on the web.

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Applicant also asserts that the rate of merchandise discount in Kannellos is dependent on the product purchased and not length of member's subscription. Examiner respectfully disagrees and notes that a three year subscription is a length of member's subscription and therefore offering a discount for this purchase represents a discount based on the length of a subscription.